

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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KHENAN CLARKE,

Petitioner,

-against-

No. 16-cv-4605 (AMD)

CHRISTOPHER MILLER,

Respondent.

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**ORDER GRANTING PETITION FOR *HABEAS CORPUS***

WHEREAS Petitioner Khenan Clarke was convicted and sentenced in New York State Supreme Court, Queens County on June 29, 2011, as amended by a May 8, 2014 order of the New York State Appellate Division, Second Judicial Department as follows:

- (a) Count One: arson in the first degree, carrying an indeterminate sentence of 25 years to life imprisonment to run consecutively with the sentence imposed on Count Two;
- (b) Counts Two, Three, and Four: attempted murder in the second, each carrying a determinate sentence of 25 years' imprisonment and 5 years' post-release supervision, to run concurrently with each other and all remaining counts, except that Count Two runs consecutively with Count One;
- (c) Counts Five and Six: assault in the first degree, each carrying a determinate sentence of 15 years' imprisonment and 5 years' post-release supervision, to run concurrently with each other and all remaining counts; and
- (d) Count Seven: burglary in the first degree, carrying a determinate sentence of 25 years' imprisonment and 5 years' post-release supervision, to run concurrently with all remaining counts;

WHEREAS Petitioner Khenan Clarke duly petitioned this Court for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254 on the ground that he is in custody in violation of the Constitution or laws of the United States;

WHEREAS the parties have proposed a stipulated resolution of Petitioner's application for a writ of *habeas corpus*;

Upon joint motion of the parties, it is hereby:

ORDERED that Petitioner Khenan Clarke's motion for a Writ of *Habeas Corpus* is GRANTED as follows:

It is further ORDERED that Petitioner Khenan Clarke's New York State conviction on Count One for arson in the first degree, and his indeterminate sentence of 25 years to life imprisonment on Count One are hereby VACATED;

It is further ORDERED that Petitioner Khenan Clarke's remaining convictions on Counts Two, Three, Four, Five, Six, and Seven are to remain in place, and sentences on those remaining counts are to run concurrently with each other;

It is further ORDERED that Petitioner Khenan Clarke's total sentence is, therefore, reduced to a determinate sentence of 25 years' imprisonment, and 5 years of post-release supervision to follow. The New York State Department of Correctional and Community Services is directed to amend the commitment order of Khenan Clarke (Departmental Identification Number 11A3164) in accordance with this order.

**SO ORDERED.**

Dated: July 27, 2023  
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Brooklyn, New York

s/Ann M. Donnelly  
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Hon. Ann M. Donnelly  
United States District Judge